

**OPENING STATEMENT OF  
RANKING DEMOCRATIC MEMBER PAUL E. KANJORSKI  
SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,  
AND GOVERNMENT SPONSORED ENTERPRISES  
HEARING ON THE IMPLEMENTATION OF  
THE SECURITIES AND EXCHANGE COMMISSION'S  
REGULATION FAIR DISCLOSURE  
THURSDAY, MAY 17, 2001**

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Mr. Chairman, thank you for the opportunity to comment briefly before we begin today's hearing on Regulation Fair Disclosure, otherwise known as Reg FD. Designed to end the selective disclosure of material, non-public information, Reg FD seeks to increase informational efficiency and allocational efficiency in our nation's securities markets, thus increasing market integrity and raising investor confidence. Since its adoption, this promising SEC rule to end the problems of asymmetric information has generally attracted praise from investor advocates and criticism from professionals in the securities industry. Publicly traded companies have also found themselves operating in the cross hairs of the new regulatory environment.

The documentation tracing the development of Reg FD is long and extensive. In December 1999, the Securities and Exchange Commission issued a proposal designed to provide the general public with the same access to information about public companies as Wall Street professionals. In short, Reg FD states that when a company, or a senior corporate official acting on behalf of the company discloses material, non-public information to certain securities market professionals, or to stockholders "who may well trade on the information," then the company must make the same disclosure to the public. This proposed rule to level the playing field for individual investors attracted widespread attention and drew nearly 6,000 comment letters.

Prior to the adoption of Reg FD, selective disclosure was lawful and widespread. The many supporters of the rule argued that the Securities and Exchange Commission should prohibit selective disclosure for two principal reasons. First, the practice undermined the integrity of our nation's securities markets, thus reducing investor confidence in the fairness of those markets. Second, it created incentives for analysts to refrain from making negative statements about the companies they followed in order to maintain their preferred access to information. These arguments and conflicting comments ultimately persuaded the Commission to approve a revised version of Reg FD in August 2000, and implementation began in late October 2000.

In the nearly seven months since Reg FD became effective, there has been a growing accumulation of surveys, anecdotes, and interpretations about its effects. Warren Buffet, the billionaire investor and head of Berkshire Hathaway, has, for example, praised the regulation. To date, the most obvious consequence of Reg FD appears to be that average investors have obtained better access to corporate communications. The most noticeable change is the open access for investors to company conference calls. Before the rule, one survey found that 80 percent of companies excluded individual investors from conference calls; now nearly all companies include individuals. Furthermore, a recent PricewaterhouseCoopers survey of 164 publicly held high-tech firms found not only that more companies are disclosing more information more frequently after the rule's implementation, but also that few firms have incurred significant compliance costs.

That said, concerns about the rule's effects have arisen in four broad categories. First, conflicting evidence has turned up about the quality and quantity of market information provided as a result of Reg FD. Second, questions continue to circulate about the actual access of individual investors to material market information. Third, some assert that the costs of complying with the regulation have exceeded the SEC's estimates. Finally, some have contended that the regulation's implementation has unnecessarily increased volatility in stock market prices. These issues merit our consideration and review today.

From my perspective, individual investors on Main Street should have access to the same information as the pros on Wall Street, and the preponderance of preliminary evidence indicates that the SEC's regulation's tangible and intangible benefits are increasingly outweighing its costs. It is, however, also too early to know for certain how the fair disclosure rule is working. With time and experience, I expect that the industry's concerns about Reg FD will likely fade as the marketplace becomes comfortable with the enforcement of the standard. In the meantime, we should work in Congress to closely monitor SEC's actions to implement its rule and appropriately refine its enforcement approach.

In closing, Mr. Chairman, I believe it important that we learn more about the views of the parties testifying before us today about Reg FD. I also commend you for putting together two panels that hopefully will allow us to engage in a fair, comprehensive, thoughtful, vigorous, and balanced debate. I therefore look forward to hearing from our witnesses about their impressions on this regulation and yield back the balance of my time.